

MEMORANDUM

MCDA

Request for City Council Committee Action

Date: November 21, 2002

To: Committee of the Whole
Community Development Committee
Transportation and Public Works Committee
Ways and Means/Budget Committee
Intergovernmental Relations Committee

Referral to: MCDA Board of Commissioners

Prepared by: Ann Calvert, Phone 612-673-5023

Approved by: Chuck Lutz, MCDA Interim Executive Director _____
Chuck Ballentine, Planning Director _____
Brian Lokkesmoe, Interim Public Works Director _____

Subject: GUTHRIE THEATER RIVERFRONT PROJECT (including land sale public hearing)

Additional Parcel: "Air rights" parcel of about 25,000 square feet over future City
to Be Sold: parking facility at Second Street and Ninth Avenue South

Purchaser: The Guthrie Theater Foundation
725 Vineland Place
Minneapolis, Minnesota 55403

Sales Price: \$11.00 per square foot times the square footage of the "air rights"
for "Air Rights" parcel to be conveyed to the Guthrie (approx. \$250,000 –
\$325,000)

Offering Procedure: Negotiated.

Previous Directives: On February 2, 2001, the City Council and MCDA Board authorized execution of a letter of intent between the City, MCDA and Guthrie Theater and approved a package of pre-implementation activities. On March 23, 2001, the City Council and MCDA Board approved various actions related to an archaeological study of the Guthrie site. On May 18, 2001, the City Council and MCDA Board authorized the execution of a redevelopment agreement with the Guthrie Theater Foundation. On December 28, 2001, the MCDA Board authorized the acceptance of an easement from the Minneapolis Park and Recreation Board to facilitate the theater project. On May 3, 2002, the City Council designated the area in which the Guthrie project is located as a "targeted neighborhood" in which Port Authority bonding powers may be used.

Neighborhood Group Notification: The updated project was presented to the Downtown Minneapolis Neighborhood Association on February 12, 2002, and to the Industry Square Project Committee on March 13, 2002.

Ward: Two

Consistency with *Building a City That Works*: Achieves Goal 4.B and D by preserving and enhancing the Guthrie Theater as a unique Minneapolis amenity and developing an MCDA-owned Central Riverfront site.

Comprehensive Plan Compliance: The overall intent of the new theater facility (as well as the level and kind of proposed activities that will be generated by its presence) is in compliance with the goals of the Comprehensive Plan.

Zoning Code Compliance: The site is zoned C3A; this zoning permits the proposed uses, assuming a Conditional Use Permit for the indoor theaters and parking facilities.

Impact on MCDA and City Budget: (Check those that apply)

- ☐ No financial impact
- ☒ Action requires an appropriation increase to the City Budget
- ☐ Action provides increased revenue for appropriation increase (future parking bond sale)
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): Implementation of redevelopment agreement will result in future appropriations for public improvements and other implementation actions.

Living Wage / Business Subsidy: The Guthrie Theater will enter into a business subsidy agreement with the MCDA.

Job Linkage: The Guthrie Theater will enter into a job linkage agreement with the MCDA.

Affirmative Action Compliance: The Guthrie Theater will be required to comply with affirmative action requirements.

City Council Recommendation: It is recommended that the City Council: 1) authorize the appropriate City officials to execute a redevelopment agreement amendment and related documents (including a parking design-build agreement and reciprocal easement and operating agreement) with the Guthrie Theater Foundation, subject to the terms outlined herein, and to take necessary implementation actions; 2) adopt the attached resolution authorizing the sale of an air rights parcel to the Guthrie Theater Foundation; 3) authorize the appropriate City officials to execute a purchase agreement, promissory note, environmental escrow agreement and related documents with Hennepin County in accordance with the terms described herein; 4) approve an increase of \$360,000 to the 7500 Fund appropriation to cover initial parking design costs and \$2,588,296 for land acquisition; and 5) rank the Guthrie request for state bond funds among the highest-priority City-sponsored projects.

MCDA Board of Commissioners Recommendation: The Interim Executive Director recommends that the MCDA Board of Commissioners authorize the appropriate MCDA officials to execute a redevelopment agreement amendment and related documents with the Guthrie Theater Foundation, subject to the terms outlined herein, and to take necessary implementation actions.

Please note summary of major contract amendment terms on page 9.

Existing Redevelopment Agreement

In October of 2001, the City of Minneapolis, MCDA and Guthrie Theater Foundation (the "Guthrie Theater") executed a redevelopment agreement for Guthrie's theater complex adjacent to the Mississippi River. A map illustrating the proposed Guthrie site and adjacent Parcel "E" is attached as Exhibit A.

The planned theater complex will include three theaters (a 1,100 seat thrust-stage theater, a 700 seat proscenium-stage theater and a 250 seat laboratory theater), plus administrative, production, educational and related space. The economic impacts of the project include \$285 million in construction and spin-off spending, 200 new full-time jobs and net, new visitor/tourism spending of \$32 million per year.

Under this redevelopment agreement, the MCDA agreed to sell the Guthrie a ten acre site bounded by Chicago and 11th avenues, West River Parkway and Second Street for \$3,000,000, less a credit for certain parking revenues received by the MCDA. The City of Minneapolis agreed to build and operate 1,000 public parking spaces to serve the Guthrie and other area users. About 400 spaces were to be built under the theater, and the other 600 spaces were to be built on Parcel E, which is adjacent to the Guthrie site (see Appendix A). The redevelopment agreement also provided that the City was to build a tunnel under Second Street South to connect the two parking facilities. The City also committed to construct Chicago Avenue between Washington Avenue and Second Street South, which is planned to occur as part of the adjacent Parcel "D" development. (see Appendix A). The construction of a new segment of Ninth Avenue between Washington and Second was expected to eventually occur as part of implementation of the *Historic Mills District Plan*, but was not anticipated to be needed for the Guthrie project.

Changes Since Execution of Existing Redevelopment Agreement

Guthrie's Schematic Design Completed

The Guthrie's schematic design is a more compact urban design than originally anticipated. All of the theater components are planned to be located between Chicago and Ninth (the westerly 1/3 of the site), with the Guthrie scene shop above the planned Parcel "E" parking facility. A "production link" over Second Street will connect the scene shop to the thrust and proscenium stages. This schematic design has been presented to numerous bodies that will be involved in the eventual review process. The two proposed parking facilities (see above) would be combined into a 1,000-stall facility built on Parcel E.

Higher Than Expected Condemnation Awards

The MCDA has completed two condemnation actions for parts of the site, which resulted in a much-higher-than-expected land acquisition cost.

State Bond Funds Vetoed

The 2002 state legislature approved bonds for the Guthrie project, which was vetoed by the Governor. The Guthrie Board has elected to continue design of the theater complex as planned and will seek state funding in the 2003 and/or 2004 session.

Principal Terms of Amendment #1 to Redevelopment Agreement; Related Land Transaction with Hennepin County Regional Rail Authority

The balance of this report recommends a number of steps needed to move the project forward, including:

- Approval of a land transaction with Hennepin County Regional Rail Authority
- A package of redevelopment agreement amendments that will respond to the compact theater design and the increase in MCDA land acquisition costs
- Related appropriations
- Legislative ranking of the Guthrie project

Revised Site Size and Price

Because of the more compact design noted above, the Guthrie has agreed to reduce the size of the site it will acquire to an area of about 5.6 acres, bounded by Chicago and Tenth avenues, West River Parkway and Second Street (see Exhibits A and B1). This will accommodate the initial theater construction and leave room for future expansion.

MCDA Retains Ownership of Portion of Site; Revised Sale Price

The MCDA will retain ownership of the remaining portion of the site from Tenth to 11th and will market it at an appropriate time for use(s) compatible with the theater and the *Update to the Historic Mills District Plan*. The 2002 Assessor's Estimated Market Value for this parcel is about \$2,000,000.

The Guthrie has also agreed to increase the price it will pay the MCDA for the Site. The revised price will be \$4,000,000. This increased price, combined with the "air rights" parcel proceeds described below and the future anticipated land proceeds from the parcel between Tenth and 11th, are hoped to be sufficient to recoup the MCDA's condemnation award payments.

Air Rights Parcel on Parcel "E" To Be Sold for Scene Shop

The City will convey an air rights parcel of about 25,000 square feet above the Parcel "E" parking facility for construction of the Guthrie's scene shop (see Exhibit B2 preliminary legal description). This proposed parcel sale has been approved by the City Planning Commission and Permanent Review Committee. The Guthrie has agreed to pay an amount equal to \$11.00 per square foot, which will total between \$250,000 and \$325,000 depending on its ultimate size. The City Assessor has determined that this price is within the reasonable range for these air rights. The redevelopment agreement amendment will provide that these proceeds will be transferred from the City to the MCDA to help offset the condemnation awards.

Parcel “E”Land Transaction with Hennepin County Regional Rail Authority; Related Appropriation

The existing redevelopment agreement with the Guthrie obligates the City to acquire an “Off-Site Parking Parcel” as a site for parking to serve the Guthrie and other area uses. Parcel “E” across from the Guthrie entrance is currently owned by the Hennepin County Regional Rail Authority (HCRRA) and used for surface parking and is the best choice for this purpose. The MCDA and City have been negotiating with HCRRA staff the terms of a land transaction for Parcel “E.” The proposed terms of the HCRRA transaction are outlined in more detail in Exhibit D and include:

- Conveyance to the City for no cost of the HCRRA-owned portion of the right-of-way for a new segment of Chicago Avenue.

The Chicago dedication will occur regardless of whether the Guthrie project moves forward, as it had been previously committed by Hennepin County and Chicago must be installed to serve other development in the Historic Mills District.

- Sale to the City of an 80 foot right-of-way for a new segment of Ninth Avenue, a 20 foot-wide strip of land along Chicago that will be used to provide additional streetscaping, a parking parcel of about 58,017 square feet and a parcel of about 38,123 square feet for interim construction staging/surface parking and eventual “liner” development.
- The price for the Ninth, Chicago 20 feet, parking and “liner” parcels shall be \$20.35 per square foot (or a total of \$2,588,296), plus a stream of payments from the future parking revenues to be paid as follows: \$100,000 per year for 17 years beginning in the 16th year of parking operation and an additional \$25,000 per year in the 33rd year of operation (these future payments have a Present Value of about \$500,000).

Except for Chicago Avenue, the remaining terms are conditioned upon the Guthrie project moving forward and will not occur until after the anticipated parking bonds have been sold. An appropriation increase of \$2,588,296 in the 7500 Fund is proposed to cover acquisition. This amount will be covered by the future bond proceeds and will not be expended unless and until the project moves forward.

Design Plan for Parcel “E” to Accommodate New Land Uses

A number of uses are proposed to be accommodated on Parcel “E” (see preliminary site plan on Exhibit C). As anticipated in the approved *Update to the Historic Mills District Plan*, new segments of Chicago and Ninth avenues will be extended from Washington to Second Street to better connect this area into the city’s grid. In order to enhance Chicago Avenue as a pedestrian connection from the Downtown East LRT station to the riverfront, the Chicago Avenue right-of-way will be 20 feet wider than normal to provide additional space for wider sidewalks and more streetscape amenities. The public parking ramp will be located at the corner of Second Street and Ninth, with entry/exit points on both Second and Ninth and the Guthrie scene shop above.

Parcels of land along Chicago and Washington will be used (along with the future Ninth Avenue right-of-way) for interim ramp construction staging. The MCDA will work with the City to market this land for future "liner" development that will begin after parking construction to screen the parking and provide activity along these two key streets. Developers have expressed interest in this liner parcel.

Consolidated Parking Plan and Design-Build Proposal, Related Appropriation

Both the City and Guthrie now feel that it would be more efficient for both parties if the entire 1,000 parking spaces are consolidated into a single facility on Parcel "E." About 400 of the spaces will be placed below-grade and the remaining 600 above-grade, so the visual impact of the consolidated parking will be similar to the originally planned 600-space above-grade ramp.

The original redevelopment agreement specified that the 400 public spaces to be built underneath the theater were to be built on a fixed-price design-build basis for the City by the Guthrie and its contractors. This helps assure design and construction coordination and achieves efficiencies through use of a single general contractor. Such a design-build relationship is allowed by state statute when a private development is located above or below a public parking facility. It is recommended that this same approach be used for the consolidated parking facility that will be located underneath the scene shop. The fixed price will be \$24,300,000 -- \$24,100,000 for the 1,000 parking spaces and \$200,000 for the related public improvements, assuming the project moves forward in 2003. More detailed information about the proposed design-build terms are outlined in Exhibit E.

Under the original redevelopment agreement, the City would have been incurring all of the design expenses for the 600-space parking facility. The Guthrie will now complete the parking design, so it is proposed that the City appropriate \$360,000 in the 7500 Fund to cover those costs until the theater project is funded and will definitely proceed. These payments will apply towards the overall cost of \$24,300,000 and will be reimbursed by the parking ramp bonds once they are sold, but will be at risk if the project does not proceed due to lack of state funding.

Other Public Improvements

The existing redevelopment agreement provided that the City was to build a tunnel connecting the Parcel "E" parking to the theater (at an estimated cost of about \$1,200,000), but did not anticipate the need to build Ninth Avenue at this time. Now that it is clear that Ninth is needed to provide access to the parking, the Guthrie has agreed to waive the tunnel (unless it decides to build it itself). This will "free up" financial capacity for the City to acquire the land for Ninth from HCRRA and build the street (at a total estimated cost of about \$1,000,000). To compensate for the lack of the tunnel, it is proposed that the City approve a mid-block crosswalk that will cross Second Street from the parking entrance to the theater entrance, underneath the proposed production link. The cost to improve the crosswalk will be paid by the Guthrie.

The existing redevelopment agreement also requires the City to build the new segment of Chicago Avenue between Washington and Second. It is currently expected that the financial capacity related to the developments upriver from Chicago (i.e., the lofts and Parcel "D") will be sufficient to support this expense, but this cannot be completely verified until the financing plans for these components are complete. Planning is also under way for the Chicago plaza, to be located along the Chicago right-of-way from Second to West River Parkway between the Guthrie and Mill City Museum. This will be funded by previously-approved Net Debt bonds.

Financing Plan for Parking and Related Public Improvements

The estimated net revenue from the proposed consolidated parking facility is projected to be sufficient to support all costs related to the parking, including all HCRRRA land acquisition, design and construction of the parking and related public improvements, and construction of the new segment of Ninth Avenue. The proposed 1,000 public parking spaces will be used by Guthrie patrons, monthly employee parkers from nearby businesses and downtown, Metrodome event visitors and short-term parkers visiting residents and businesses in the area. It should be noted that about 1,600 existing surface parking spaces on the Guthrie Site and Parcel "E" will be displaced by the pending development.

It is expected that general obligation parking revenue bonds will be sold in the future once it is clear that the Guthrie project will proceed.

Guthrie Employee Parking

The Guthrie expects to have about 1,100 employees in the expanded complex and needs about 150 easily-accessible, affordable parking spaces for employees who work late-night hours and/or need frequent access into and out of parking. The Guthrie originally planned to build 150 surface parking spaces on the "expansion" part of its site. However, it appears unlikely that the necessary Conditional Use Permit and zoning variance can be secured for this lot. Therefore, as an alternative, it is proposed that the City/MCDA will commit to lease to the Guthrie a total of 150 parking spaces for a period of seven years, beginning when the theater opens (expected in 2006). The rate for these spaces will be \$40.00 per month for the first year and then inflating in proportion to increases in the monthly reserved rate in the Parcel "E" ramp. As detailed in the Exhibit E term sheet, the spaces will be provided in one or more of the following City/MCDA-owned locations, in the priority order shown: 1) in the Parcel "E" ramp, to the extent spaces are available without eliminating market-rate monthly parkers, 2) on the "liner" development parcel until it is developed (subject to any necessary City Planning Commission approvals), and/or 3) in the existing "grandfathered" surface parking lot owned by the MCDA in the vicinity of Second Street and 11th Avenue South.

If the Parcel "E" ramp fills up, the "liner" development parcel is sold for development and the "grandfathered" lot is proposed for development before the end of the seven years, the City will support the granting by the City Planning Commission of the approvals needed for the Guthrie to accommodate the 150 spaces for the remainder of the seven year term on the portion of the Guthrie Site between Ninth and Tenth avenues. The lease would then be terminated for the remaining term.

The Guthrie also may seek approval from the City Planning Commission of a limited number of surface spaces (i.e., no more than 15) on the Guthrie Site. If approved, the number of spaces leased by the City/MCDA will be revised accordingly.

Legislative Priority

In order to provide the legislative support needed for the Guthrie to successfully secure state funding, it is proposed (subject to confirmation as part of the annual City overall legislative ranking process) that the City rank the Guthrie project in the highest priority category of City-sponsored projects.

Other Items in Proposed Redevelopment Agreement Amendment #1

The sections above note several amendments that are proposed to be incorporated into Amendment #1 to the MCDA/City/Guthrie redevelopment agreement. These major terms and others are outlined in Exhibit E.

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Exhibits/Attachments:

- A – Overall map showing Guthrie Site and Parcel “E”
 - B1 – Legal description for revised Guthrie Site
 - B2 – Preliminary legal description for air rights parcel
 - C – Parcel “E” preliminary site plan
 - D – Proposed term sheet for Parcel “E” transaction with Hennepin County
 - E – Proposed term sheet for Guthrie/City/MCDA redevelopment agreement amendment #1
 - F – Financial summary
- Land sale resolution

SUMMARY OF MAJOR CONTRACT AMENDMENT TERMS

	CURRENT CONTRACT	PROPOSED AMENDMENT
Size of Guthrie Site	10.2 acres	5.6 acres
Price for Guthrie Site	\$3,000,000	\$4,000,000
Air rights parcel proceeds	Not anticipated	\$250,000 - \$325,000
Location of "Minimum Improvements" to be built by Guthrie	All on Guthrie Site	Most of complex on Guthrie Site; Scene shop and related on Parcel "E" above parking
Public parking to be provided by City	1,000 spaces total; 400 spaces under theater to be constructed through design-build agreement with Guthrie; 600 spaces to be built above-grade on Parcel "E" by City; Estimated const. cost -- \$24,100,000	1,000 spaces total; About 400 spaces to be built below-grade and 600 spaces above-grade on Parcel "E;" To be built through design-build agreement with Guthrie; Estimated const. cost -- \$24,100,000
Other public improvements	Chicago Ave. to be built by City; Ninth Ave. not anticipated as part of this project; City to build tunnel between theater and parking	Chicago Ave. to be built by City; Ninth Ave. to be built by City; No tunnel (unless Guthrie builds it); Mid-block crosswalk; Guthrie to build streetscape improvements as part of fixed price design-build agreement (additional \$200,000)
Guthrie employee parking	Expected to be accommodated in surface lot on Guthrie Site (subject to approvals)	City/MCDA to lease 150 spaces for seven years in one or more of three possible locations
Acquisition of Parcel "E" for public parking facility	City committed to acquire parking site, but no terms negotiated	HCRRA will convey to City at no cost its part of vacated Chicago and will sell Parcel "E" and vacated Ninth for \$20.35 per sq. ft., plus future payments with Present Value of about \$500,000

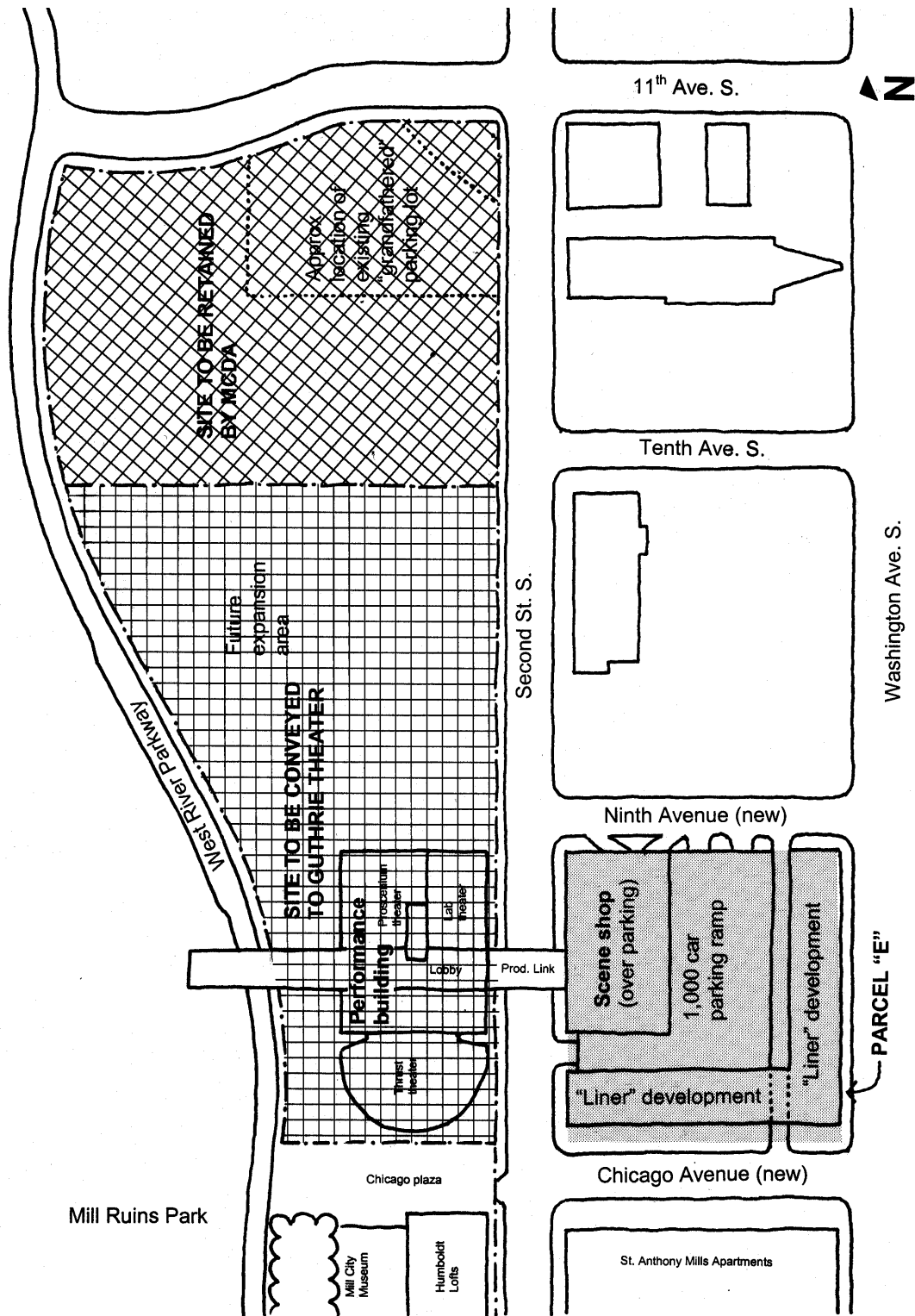
EXHIBIT A

EXHIBIT B1 – PRELIMINARY LEGAL DESCRIPTION FOR REVISED GUTHRIE SITE PARCEL

8/21/02

That part of Lots 1 and 5, Auditor's Subdivision No. 41; Blocks 102 and 118, Town of Minneapolis; Government Lot 11, Section 23, Township 29, Range 24; and vacated Ninth Avenue South described as follows:

Beginning at the most southerly corner of Lot 5, said Block 118, said corner also being the point of intersection of the northeasterly line of Second Street South with the northwesterly line of Tenth Avenue South; thence North 59 degrees 10 minutes 15 seconds West along said northeasterly line of Second Street South a distance of 740.82 feet to the most westerly corner of Lot 1, said Block 102; thence North 30 degrees 43 minutes 40 seconds East along the northwesterly line of said Lot 1, Block 102 and along the northwesterly line of Lot 1, said Auditor's Subdivision No. 41 a distance of 242.27 feet to the southerly line of West River Parkway; thence southeasterly along said southerly line on a curve concave to the North, said curve having a radius of 675.13 feet, a central angle of 34 degrees 50 minutes 13 seconds, and a chord bearing of South 70 degrees 26 minutes 10 seconds East, a distance of 410.49 feet; thence South 87 degrees 51 minutes 16 seconds East a distance of 205.40 feet along said southerly line; thence southeasterly along said southerly line on a curve concave to the South, said curve having a radius of 774.87 feet, a central angle of 13 degrees 09 minutes 56 seconds, and a chord bearing of South 81 degrees 16 minutes 18 seconds East, a distance of 178.05 feet to the northwesterly line of vacated Tenth Avenue South; thence South 30 degrees 49 minutes 30 seconds West along said northwesterly line of vacated Tenth Avenue South a distance of 486.66 feet to the point of beginning.

All in Hennepin County, Minnesota.

Containing 245,241 square feet or 5.630 acres.

**EXHIBIT B2 – PRELIMINARY LEGAL DESCRIPTION FOR GUTHRIE
AIR RIGHTS PARCEL**

8/16/02

An air rights parcel of about 207 feet by 118 feet over an area generally described as follows:

That part of the following tracts of land that lies above, but not below, a horizontal plane having an elevation of 857 feet above sea level according to the National Geodetic Vertical Datum, 1929 Adjustment:

All of Lots 6, 7 and 8, Block 97, Town of Minneapolis;

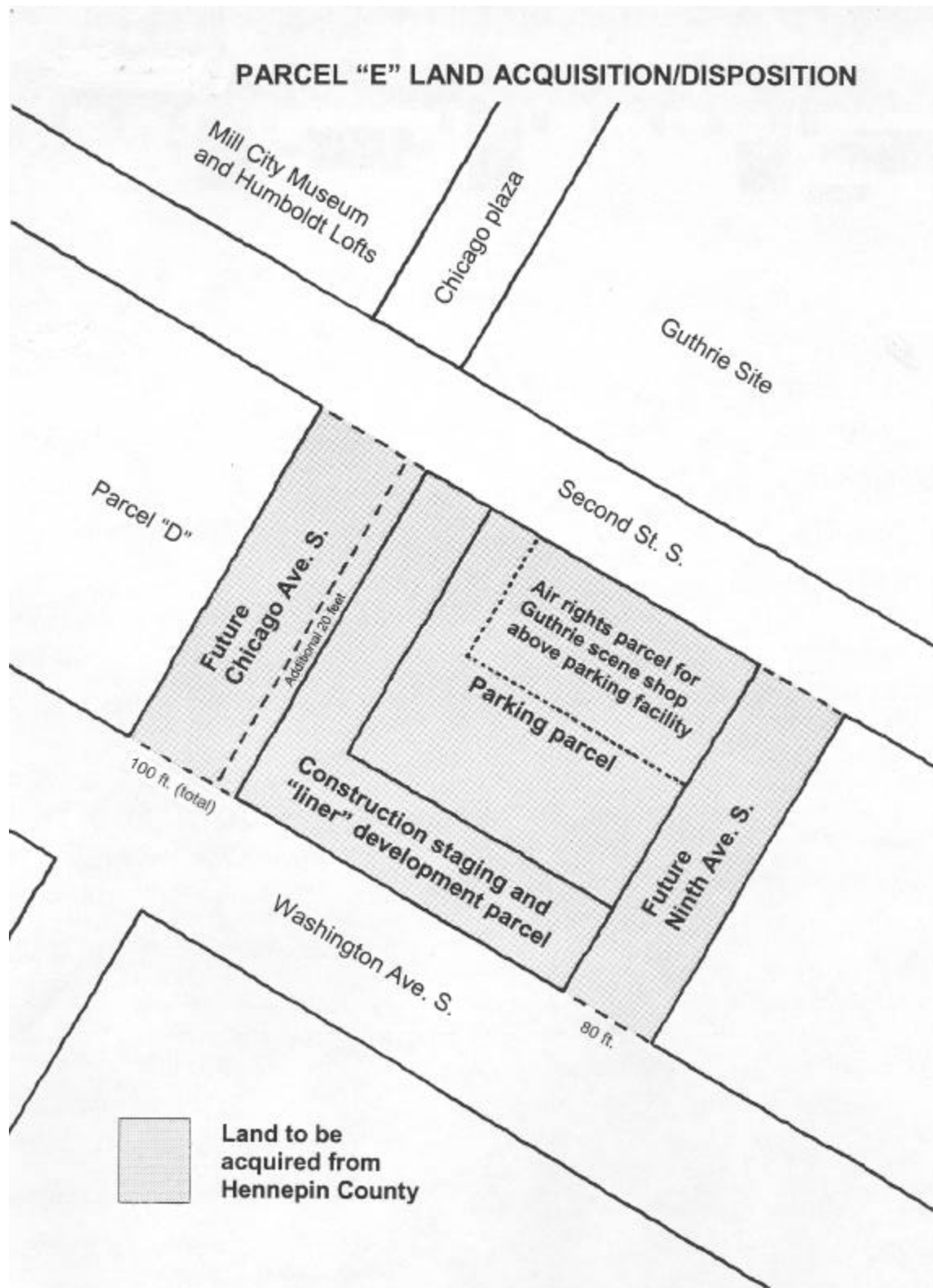
The southeasterly 9 feet of Lot 9, Block 97, Town of Minneapolis;

The northeasterly 18 feet of Lot 14, Block 97, Town of Minneapolis;

The southeasterly 42 feet of the northeasterly 18 feet of Lot 11, Block 97, Town of
Minneapolis;

According to the recorded plat thereof and situated in Hennepin County, Minnesota.

EXHIBIT C –



**EXHIBIT D -- PROPOSED TERM SHEET --
HENNEPIN COUNTY REGIONAL RAIL AUTHORITY (HCRRA)/CITY
PARCEL "E" LAND TRANSACTION**

10/30/02

Property to be conveyed

HCRRA will convey to City of Minneapolis title to about 152,015 square feet of land from northwestern line of vacated Chicago Avenue to southeastern line of vacated Ninth Avenue South.

Price

1. The HCRRA-owned portion of the right-of-way for Chicago Avenue from Washington to Second will be conveyed to City at no cost (as had been committed to when Ninth Avenue South was vacated).
2. Price for remaining parcels will be \$20.35 per square foot, or a total of \$2,588,296, plus future payments from parking revenue described below.

Timing of payments of purchase price

1. City will pay \$1,812,493 in cash at closing for parking parcel (about 58,017 square feet), Ninth Avenue right-of-way (about 24,842 square feet) and extra 20 feet along Chicago (about 6,207 square feet)
2. At City's option, purchase price of \$775,803 for construction staging/"liner" development parcel (about 38,123 square feet) may be paid either:
 - a. at closing, or
 - b. pursuant to a contract for deed with interest payments at 5% per year until principal payment at earlier of four years or when City sells parcel to a third party for development.
3. In addition, City will make future payments from parking ramp revenues. Payments will include 17 annual payments of \$100,000 per year, beginning in 16th year of operation, plus an additional \$20,000 in 33rd year of operation. Present value of about \$500,000.

Property condition

1. HCRRA will be responsible for costs of environmental remediation (of site and asbestos abatement within existing small building on site) to MPCA standards for redevelopment to proposed uses (streets, parking, theater and mixed-use development that may include commercial and residential). An escrow of land proceeds or other HCRRA funds will be established to cover remediation costs and will be used to reimburse remediation costs incurred by City and/or Guthrie. City and HCRRA staff will agree upon escrow amount and terms after completion of additional testing related to foundation design.
2. HCRRA will provide any site survey or title information it has and will convey marketable fee title, free and clear of all encumbrances, by quit claim deed. HCRRA must pay state deed tax, all real estate taxes and levied or pending special assessments, and one-half of reasonable and customary closing fees imposed by closing agent. City will pay other half of closing fees. HCRRA also

must pay and provide any relocation benefits or services to occupants displaced from property if required under state or federal law.

3. If it is necessary to replat or otherwise subdivide property prior to closing, HCRRA will cooperate with City to accomplish same.
4. Sale will be "as is," with City to be responsible for demolition of small structure on site.

Timing of closing

1. HCRRA will convey Chicago Avenue right-of-way 60 days after City notification that construction of Chicago is ready to proceed.
2. Closing on remainder of property will be contingent upon Guthrie project moving forward. Closing on sale of liner, Ninth and parking parcels and additional 20 feet for Chicago Avenue to occur 60 days after notice by City of Minneapolis/MCDA to HCCRA that project is ready to proceed, but no later than March 31, 2005.

LEGAL DESCRIPTION – PARCEL "E" AND RELATED STREETS

9/9/02

Lots 1 to 5, inclusive, except the southwesterly 20 feet thereof;

Lots 6 to 14, inclusive, Block 97, Town of Minneapolis, according to the recorded plat thereof, and situate in Hennepin County, Minnesota.

Being registered land as evidenced by Certificate of Title No. 852271.

Together with that part of vacated Eighth Avenue South (a.k.a., Chicago Avenue South), formerly Ames Street, lying between northwesterly extensions of the northeast line of said Block 97 and the northeast line of the southwest 20.00 feet of said Block 97.

And together with that part of vacated Ninth Avenue South, formerly Rice Street, lying between the southeasterly extensions of the northeast line of said Block 97 and the northeast line of the southwest 20.00 feet of said Block 97.

EXHIBIT E – PROPOSED TERM SHEET – MCDA/CITY/GUTHRIE REDEVELOPMENT AGREEMENT AMENDMENT #1

11/8/02 pm

1. Revised theater site size and price:

- The Guthrie Site (as defined in the redevelopment agreement) to be sold by the MCDA to the Guthrie will be revised to include only the two-block site between Chicago and Tenth avenues, West River Parkway and Second Street South (see Exhibit B1 for legal description). The Guthrie will have the right to utilize the entire site to the upriver edge of vacated Tenth, subject to any zoning setback provisions.
- The price for this parcel will be the original \$3,000,000, plus an additional \$1,000,000 (for a total of \$4,000,000), plus (as payment for the “air rights” scene shop parcel) an amount equal to \$11.00 per square foot times the square footage (as determined below) of the scene shop air rights parcel, less the Parking Credit provided in the existing redevelopment agreement. The \$4,000,000 payment will be made to the MCDA when the Guthrie Site is conveyed, and the additional “air rights” payment will be made to the City, then transferred to the MCDA, when the “air rights” parcel is conveyed.
- The City, MCDA and Guthrie will work cooperatively with other appropriate stakeholders within a “development objectives” process to identify appropriate uses and design guidelines that will comply with the Update to the Historic Mills District Plan for the remaining portion of the site as previously defined (i.e., from Tenth to 11th avenues), and the MCDA will market this parcel at an appropriate time. One of the goals of this non-binding process will be to reasonably preserve the development potential of both the Guthrie’s “expansion” site between Ninth and Tenth and the retained parcel from Tenth to 11th. The development objectives process also will consider whether Tenth Avenue should be rededicated as a street and, if so, how it might be financed.
- To accommodate the Guthrie’s design, the MCDA has entered into an easement with the Minneapolis Park and Recreation Board that benefits the Site that will be conveyed to the Guthrie.

2. Location of Minimum Improvements:

- A scene shop and related improvements of approximately 25,000 square feet will be built in an air rights parcel over the Off-Site Parking Parcel, instead of on the Guthrie Site.

3. Off-Site Parking Parcel (Parcel “E”) and street land acquisition:

- The City shall pay the cost of acquiring all of the land for the Off-Site Parking Parcel (as defined in the redevelopment agreement), including the adjacent “liner parcel” needed for construction staging.
- The City also shall acquire the rights-of-way for the new segments of Ninth and Chicago avenues.

- The City's obligation to acquire the Off-Site Parking Parcel and street rights-of-way and to convey the "air rights" parcel described below is conditioned upon approval of said acquisition and outside closing date by the Hennepin County Regional Rail Authority (HCRRA). In the event said transaction is not approved by HCRRA, the City will remain obligated under the redevelopment agreement to provide parking for the Guthrie.

4. Conveyance by City to Guthrie of "Air Rights":

- The City will convey to the Guthrie an air rights parcel of about 118 by 207 feet to be located about 31 feet above part of the Off-Site Parking Parcel. The calculation of the square footage and the price of the air rights parcel will not include any additional square footage for the production link or for mechanical systems or loading dock areas within the ramp, as long as the "footprints" of those areas are located entirely or largely underneath the "air rights" parcel footprint, nor will it include the area designated for cooling towers and related equipment on the upper level of the parking ramp next to the scene shop. In the event there are any mezzanines within the scene shop or should there be, for any reason, an additional floor or mechanical equipment put on top of the scene shop, then that additional square footage would not be included in the calculation.
- The Guthrie will acquire a fee interest in the air-rights parcel, and the parties' attorneys will determine the best way to deal with the ownership of related support spaces (loading docks, freight elevators etc.) The City of Minneapolis will grant the necessary and appropriate easements to the Guthrie for construction, access, support, utility and delivery facilities for the air rights parcel through the parking facility.
- The City of Minneapolis will work with the Guthrie to identify, process and/or secure the necessary City approvals, licenses, permits and/or easements for the connecting bridge across Second Street between the air rights parcel and the Guthrie.
- The timing of the conveyance of the air rights parcel will be concurrent/ coordinated with the City's acquisition of the Off-Site Parking Parcel and will be no earlier than the date upon which the Site (as defined above) is conveyed to the Guthrie and no later than March 31, 2005.
- Any City obligations relative to the air rights parcel conveyance are conditioned upon the Guthrie project proceeding in accordance with the other terms and conditions in the redevelopment contract.

5. Parking to be consolidated; Fixed Price Design Build:

- Subject to the following items, on behalf of the City the Guthrie will design and build a parking facility of about 1,000 spaces on the Off-Site Parking Parcel, plus related public improvements described below, for a fixed price of \$24,300,000. This price will be fixed if the theater begins construction by October 1, 2003. In the event that: a) the theater has not begun construction by October 1, 2003, and b) construction costs have materially changed, and c) the Guthrie can document that it cannot build the parking and related public improvements for \$24,300,000,

then the City and Guthrie will reasonably negotiate a change in the design/build price and/or scope of the parking package.

- In order to assure coordination of the parking facility and the overall Guthrie complex, the same design team, to the extent reasonably possible, that is involved in the design of the Guthrie complex will be used to design the parking facility. The City and Guthrie will use the basic design build agreement form used for the 900 Nicollet and WMEP parking projects, but with the addition of: a) an assignment by the Guthrie to the City of the parking portion of the overall Guthrie/McGough contract (with McGough consent to the assignment), and b) a provision that the Guthrie will assign to the City all warranties for the construction of the ramp from McGough and all professional liability for the design of the ramp from Architectural Alliance. The City will agree to look solely to such entities for any claims related to warranties for the parking facility. While the parties agree to use that basic agreement, each shall have a right to negotiate specific terms thereof. As provided for in redevelopment agreement, the City will be provided extensive input into the parking design process and will have final approval of the parking design and specifications to assure that it meets City standards and will be efficient to operate over the long-term.
- The Guthrie will submit for MCDA review revised Preliminary Plans illustrating the consolidated parking plan.
- In the event the Guthrie elects to exercise its contractual right to build and own the consolidated parking, the amount to be paid to reimburse the City for costs incurred for design, construction, financing and land assemblage will be reduced by the amount paid for the “air rights” parcel. In such event, the Guthrie will also take over the obligation to make payments from the future ramp revenue to Hennepin County Regional Rail Authority.

6. Adjustments to the number of parking stalls (and resulting price):

- The ramp is expected to be designed with two bays of sloping floors and two full levels below-grade. All parking spaces in the sloping bays the surface of which are located below the grade of the entrance from the street will be considered “below grade spaces”. Although the goal will be to construct 1,000 spaces with 400 below grade and 600 above grade, as the design evolves there may be minor adjustments in the number of spaces. Neither party anticipates a design in which the total number of spaces will be less than 975 or more than 1,025. If the actual number of spaces is less than 995 or more than 1,005, the fixed price will be adjusted up or down by \$18,500 per space (provided that the adjustment price of \$18,500 per space will be increased proportionately with any increase in the fixed price of \$24,300,000 for the parking facility and related public improvements that is agreed to as a result of a delay as set forth in #5). No adjustment will be made if the total is between 995 and 1,005 spaces.

7. Tunnel requirement deleted; mid-block crossing as alternate:

- The redevelopment contract provision that the City build a tunnel connecting the parking facility and the theater will be deleted, in exchange for the City committing to provide the new segment of Ninth Avenue South (see following

item). The Guthrie may build such a tunnel at its own cost and, if so, shall be responsible for its long-term ownership and maintenance.

- In the event the Guthrie elects to construct a tunnel, the City will cooperate fully in working with the Guthrie to identify, process and/or secure the necessary approvals, licenses, permits and easements to the Guthrie for the tunnel.
- In lieu of (or in addition to a tunnel), the City agrees (upon submission of suitable application) to approve a mid-block pedestrian crossing across Second between Chicago and Ninth. The crosswalk will be located under the production link and will be no wider than the production link. As part of the fixed parking cost, the Guthrie will enhance the crosswalk with a mutually agreeable package of minimum improvements, including at least paint or special paving to delineate the crosswalk and a flashing light and/or “pedestrian crossing” sign. The crosswalk design and materials will be proposed by the Guthrie and must be acceptable to City staff. The Guthrie may provide additional enhancements. If, and to the extent that, the City shall request additional improvements it shall be responsible for those additional improvements.

8. Ninth Avenue construction:

- The City will construct the new segment of Ninth Avenue between Washington and Second in time for the theater opening and will be responsible for all street-related costs, including traffic signals at the Washington intersection. No traffic signal is expected to be needed at the intersection with Second Street as a result of the theater project, and the Guthrie will not be required to participate in the funding of any such signal installed in response to the theater project. This does not preclude the City seeking Guthrie participation in funding of a future traffic signal at Ninth and Second if deemed necessary in response to any future conditions, including Guthrie expansion or other new development on the part of the Guthrie Site downriver from Ninth.
- As part of the fixed parking cost, the Guthrie will install a mutually acceptable streetscaping package on the upriver side of Ninth, plus a basic minimum concrete sidewalk on the downriver side of Ninth. The streetscaping on the upriver side of Ninth will include concrete sidewalks from the building to the curb, plus street trees and “acorn” pedestrian lighting.

9. Payment for sunk parking design costs:

- Both parties will absorb the costs they have incurred related to design of the planned 400 car ramp under the theater and 600 car ramp on Parcel “E.”

10. Operating costs:

- The parties will share operating costs for common facilities in the parking ramp, such as elevators, on a reasonable basis generally based on usage.
- The Guthrie will bear total responsibility for operating and maintenance costs related to any facilities located in the parking ramp area that are used exclusively by the Guthrie.

11. Progress payments:

- The City will make progress payments on the 1,000 car parking facility design that include an initial payment, on or about the time the contract amendment is executed, to account for design costs to date and thereafter payments shall be scheduled based on the actual design costs of the ramp, up to a maximum of \$360,000 prior to the point the theater project is funded and ready to proceed. These initial design progress payments shall be made regardless of whether the Guthrie theater project receives the necessary funding to move forward. When and if the theater project is ready to proceed, design progress payments will continue until the project is completed. At such time that the theater project is ready to proceed, the Guthrie will provide a proposed draw request schedule for the approval of the City.
- Once the parking construction begins, the City also will make progress payments on the parking facility construction based on the actual construction schedule of the ramp, more or less on a percentage of completion basis.
- All progress payments will be made after submission by the Guthrie of adequate documentation of completion status based on the agreed schedule of values. In the event such payments are delayed beyond a reasonable time period which will be defined in the parking design-build agreement, the Guthrie shall be entitled to a reasonable payment for interest during the period of such delay.

12. Ramp enhancement costs to be paid by the Guthrie:

- The Guthrie will agree to pay for ramp enhancement costs related to facilities for the Guthrie's sole use and shall have appropriate ownership, use agreement or easement rights. These enhancements may include a loading area and related vertical circulation, an insulated slab, utility chases, mechanical space and other uses as approved by the City. In the event there are any enhancements that are of joint benefit, the City and Guthrie will agree on an appropriate pro-ratio of the costs.

13. Specifications and additional costs:

- The ramp shall be designed in accordance with the City's specifications ("City of Minneapolis Parking Facilities Design Criteria") provided to the Guthrie's representative in February of 2002, subject to the changes which have already been approved and which are set forth herein. Any request by the City for specifications or equipment which exceed those specifications (including any related increase in design fees) shall be an additional cost and reimbursed by the City. The Guthrie shall have no obligation to incorporate any changes to such specifications without a specific agreement by the City to pay for such items. The Guthrie shall have the right to propose, during the design process, substitutes and a reduction in finishes which can result in savings to the project, but the City is not obligated to approve such proposals and the City may require a reasonable reduction in the fixed price cost to reflect such change(s), but only to the extent that such changes result in a reduction in finishes and/or performance.

14. Geotechnical risks related to parking construction; future environmental liability on Guthrie Site:

- Under the original redevelopment agreement the MCDA was required to take all geotechnical risks relative to the Guthrie Site and, except as specified below, nothing in the proposed amendment should be deemed to revise the obligations of the parties under that agreement. However, the following shall apply with respect to “extraordinary costs” of excavation resulting from unknown geotechnical conditions encountered during construction of the parking ramp:
- Extraordinary correction costs shall be as defined in Exhibit E to the Redevelopment Agreement. This definition does not include any costs related to schedule delay.
- The City shall be responsible for the first \$200,000 of such costs on the Off-Site Parking Parcel.
- To the extent that the MCDA spends less than \$200,000 for correction of extraordinary environmental and geotechnical conditions on the Guthrie Site theater parcel before or during construction of the theater, the unspent balance will be available in addition to the \$200,000 referred to above. The Guthrie acknowledges that tests completed on the “expansion” portion of the Guthrie Site (i.e., generally from Ninth to Tenth) do not indicate any environmental problems that require remediation under the redevelopment agreement. Therefore, the MCDA will thereafter have no remaining obligations to the Guthrie relative to the environmental or geotechnical condition of those parts of the Site not affected by the theater construction.
- The remaining amount (if any) of extraordinary geotechnical costs related to the parking shall be borne equally by the Guthrie and the City.

15. Additional parking design build assumptions: The design-build price is based upon the following assumptions:

- The parking ramp will have an aesthetic façade which will be different from, but which will complement the theater design on only the Second Street and Ninth Avenue facades of the ramp. There will be no façade on the other two faces of the parking ramp, but there will be necessary barriers to prevent cars from driving off the ramp.
- The Guthrie will undertake to make any necessary environmental corrections during the construction process, but the costs thereof shall be reimbursed by the County in accordance with the City’s environmental remediation escrow agreement with Hennepin County Regional Rail Authority (HCRRA). The City will seek to include in said agreement a definition of “Remediation Costs” that covers at least as many categories of environmental remediation costs as are covered in Schedule E of the Redevelopment Agreement. It shall be the City’s responsibility to collect such costs from HCRRA and if, for any reason, HCRRA does not pay any of such costs that are eligible for reimbursement under the escrow, they shall be paid by the City. Said reimbursements shall also include additional fees and disbursements that the Guthrie incurs as a result of delays in construction caused by unexpected environmental remediation activities that are

not addressed by the mutually acceptable Construction Contingency Plan, as outlined in the environmental escrow agreement.

- As part of the fixed parking cost, the Guthrie will replace or install the concrete sidewalk along the southwest side of Second Street from Chicago to Ninth to provide a consistent concrete walk from the property line (or light well edge) to the curb. In addition, the Guthrie will install a mutually acceptable streetscape package along this block face, including street trees, “acorn” pedestrian lights, and (only if proposed by the Guthrie and acceptable to City staff) special paving to match the Guthrie plaza at the pedestrian entrance to the parking facility. The Guthrie shall have the responsibility to repair or replace any street paving, curb and gutter presently located along the Second Street side of the Parking Parcel that is damaged or affected by construction of the parking ramp or scene shop, except to the extent that such sidewalk, paving, curb or gutter would have been replaced as a result of construction of Chicago or Ninth avenues.
- The fixed parking design build cost will include building permit fees, plan review fees, payment and performance bond, street and lane closure fees and meter closure fees.
- The Guthrie and its contractors will be granted construction easements to allow use of the “liner development parcel(s)” and Ninth Avenue right-of-way for excavation of the below-grade levels of the parking. Ninth Avenue will be constructed after the below-grade portion of the ramp is constructed and the land filled back.
- Other than one unisex bathroom, there will be no public restrooms or other restroom facilities requiring plumbing connections within the parking facility. Any such facilities, above one unisex bathroom, if required or requested, will be an additional cost. The Guthrie shall construct, at its own expense, any such facilities necessary for the operation of the scene shop.
- The parking ramp will be four bays wide and will allow for a 60-foot deep “liner” development parcel(s) (in addition to the 20 feet of additional right-of-way width) along the Chicago Avenue side of the block.
- The parking facility will include two elevator lobbies on opposite corners of the facility, with a total of four elevators. The Second Street elevator tower for the ramp and scene shop will be located near mid-block in a location that works reasonably for the scene shop, the main floor parking vestibule and any tunnel to the theater.
- Any costs related to the adjacent “liner” development (e.g., fire-rated party walls and connections from the parking to the development except the inclusion of two “knock-out” panels) will be borne by City, MCDA or private developer.

16. Mechanical plant:

- The Guthrie intends to construct a heating and cooling plant to serve its facilities within and/or above the parking structure. Part of the mechanical plant may be located within the Guthrie scene shop space (or on its roof) and part may be located within the parking ramp. The Guthrie shall have the right to construct such facilities and use space within the ramp to do so with no additional payment to the City. The location/design of such facilities shall be subject to City

approval. However, the Guthrie shall construct such facilities in a manner that they will not unreasonably interfere with the operation or maintenance of the parking facility and without any additional payment by, or cost to, the City.

- The Guthrie also will construct such facilities in a manner that does not result in unreasonable vibrations and/or loud or high-pitched sounds which unreasonably hamper development of the anticipated “liner” development. The City Environmental Management staff shall review and approve the design of the mechanical system in advance and shall not unreasonably delay or withhold its approval. The City shall not withhold its approval of a design which can be reasonably anticipated to meet state and local noise ordinances at the “liner” exterior and an NRC 40 standard in the liner housing units presuming they are on separate foundations and constructed with a concrete wall facing the parking facility.

17. Leased parking:

- The City will commit to lease 25 reserved spaces in designated locations within the parking ramp to the Guthrie at market rates, subject to confirmation by the City’s Bond Counsel that such a lease will not impair the tax exempt status of the parking bonds.

18. Surface and employee parking:

- In order to protect the financial viability of the City-owned ramp, the Guthrie must commit to remove all surface parking spaces on the Guthrie Site (except up to 15 employee spaces if approval is granted) no later than the date that the ramp opens for operation.
- The City/MCDA will commit to lease to the Guthrie a total of 150 parking spaces for a period of seven years, beginning when the theater opens (expected in 2006). The rate for these spaces will be \$40.00 per month for the first year and then inflating in proportion to increases in the monthly reserved rate in the Parcel “E” ramp. The spaces will be provided in one or more of the following locations, in the priority order shown:
 - 1) Spaces in the Parcel “E” ramp, to the extent spaces: a) are available without eliminating market-rate monthly parkers, and b) will not jeopardize the tax exempt status of the parking bonds (and with the understanding that Guthrie employees will use the spaces on or near the roof).
 - 2) To the extent that the full 150 spaces are not available in the Parcel “E” ramp and until the “liner” development parcel on Parcel “E” is sold for development, spaces will be provided in a surface lot on the “liner” parcel (subject to the approval by the City Planning Commission of any necessary Conditional Use Permit/variance).
 - 3) To the extent that the full 150 spaces are not provided by priorities 1) and 2), spaces will be provided in the existing “grandfathered” surface parking lot owned by the MCDA in the vicinity of Second Street and 11th Avenue South.

In the event that before the end of the seven year term, the Parcel "E" ramp is full, the "liner" development parcel is sold for development and the "grandfathered" lot is proposed for development, the City will support the granting by the City Planning Commission to the Guthrie of the approvals needed for the Guthrie to accommodate the 150 spaces for the remainder of the seven year term on the portion of the Guthrie Site between Ninth and Tenth avenues. If such parking is approved by the City Planning Commission, the lease would be terminated for the remaining term.

- The Guthrie also may seek approval from the City Planning Commission of a limited number of surface spaces (i.e., no more than 15) on the Guthrie Site. These spaces would be located in the area of the service court immediately east of the theater building and accessed by the same curb cut. Further design details related to the service court area and landscaping will be reviewed by Planning staff and the Planning Commission in the permit application process. If approved, the number of spaces leased by the City/MCDA will be revised accordingly.

19. Other public improvements:

- The City has committed in the existing redevelopment agreement to construct the new segment of Chicago Avenue from Washington to Second Street. This project will include any traffic signals needed at the intersections at Washington and Second.
- The provisions of the redevelopment agreement that require that the Guthrie build a sidewalk along the 11th Avenue South edge of the Site and MCDA reimbursement for same are deleted.
- The City, Guthrie and other parties will cooperate on construction and funding of a storm sewer drop shaft that will accommodate storm drainage for the Guthrie, Chicago plaza and development upriver from Chicago.

20. State Bonding:

- The City considers the Guthrie project to be a high priority for state funding. Accordingly, the City will rank the Guthrie's state bonding request among the highest priority City-sponsored projects until the earlier of the approval by the state of a total of \$35,000,000 in grant funding or the end of the 2004 legislative session, subject to confirmation as part of the overall City legislative ranking process.

EXHIBIT F – GUTHRIE PROJECT FINANCIAL SUMMARY

Historical land assemblage costs (rounded to nearest \$100,000):

Acquisition of grain elevator parcel (1987)	\$5,900,000
Elevator demolition	800,000
Condemnation awards (not including interest or property not included in Guthrie Site)	5,900,000

TOTAL	<hr/> \$12,600,000
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Less parking revenue earned to date and projected through mid-2003: (\$600,000)

(Note: About \$400,000 of this amount will be applied as a credit against the Guthrie purchase price)

Construction of Chicago Avenue: Included in Parcel "D" project

Parking and related public improvements (funded with parking revenue bonds):

Design/const. of parking & related pub. imp. (assuming exactly 1,000 spaces)	\$24,300,000
City parking consultant	200,000
Land acquisition	2,588,296
Ninth const.	435,000
Geo-tech. & cont.	350,000
City overhead fee	975,565

TOTAL	<hr/> \$28,848,861
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Authorizing Sale of Air Rights Parcel.

Whereas, the City plans to acquire property on the block bounded by Washington Avenue South, Second Street South, vacated Chicago Avenue South and vacated Ninth Avenue South, including said vacated streets; and

Whereas, the City plans to build a public parking facility on a portion of the above-described property; and

Whereas, a parcel is proposed to be created in the air rights above a portion of said parking facility; and

Whereas, the City Engineer has determined that this air rights parcel is not needed for City purposes; and

Whereas, the Guthrie Theater Foundation has offered to enter into a Redevelopment Agreement Amendment with the City, agreeing to pay the City \$11.00 per square foot for the air rights parcel; and

Whereas, the City Assessor has determined this transaction price to be reasonable and has reported this to the City Council; and

Whereas, the Planning Commission reviewed the sale on September 9, 2002, for conformance with the Comprehensive Plan and a public hearing, notice of which was published in a newspaper of general circulation in Hennepin County at least ten days in advance of the hearing, was held at a Committee of the Whole meeting on November 21, 2002, all in accordance with the Minneapolis Code of Ordinances, Section 14.120;

Now, Therefore, Be It Resolved by The City Council of the City of Minneapolis:

That the proper City officers be authorized to execute a Redevelopment Agreement Amendment and related documents and, subject to acquisition from Hennepin County, to take other necessary actions for sale of the land preliminarily legally described as:

An air rights parcel of about 207 feet by 118 feet over an area generally described as follows:

That part of the following tracts of land that lies above, but not below, a horizontal plane having an elevation of 857 feet above sea level according to the National Geodetic Vertical Datum, 1929 Adjustment:

All of Lots 6, 7 and 8, Block 97, Town of Minneapolis;

The southeasterly 9 feet of Lot 9, Block 97, Town of Minneapolis;

The northeasterly 18 feet of Lot 14, Block 97, Town of Minneapolis;

The southeasterly 42 feet of the northeasterly 18 feet of Lot 11, Block 97, Town of Minneapolis;

According to the recorded plat thereof and situated in Hennepin County, Minnesota.